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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined fifth to eighth periodic reports of Albania

Addendum

Information received from Albania on follow-up to the concluding observations*

[Date received: 24 October 2014]

Information on the implementation of the recommendations contained in paragraphs 6,7 and 14 of the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/ALB/CO/5-8).

Follow-up to recommendation No. 6

1. According to the 1989 census, the total number of minorities in Albania was 64,811 people or 2.01% of the total population.

2. In the form of the census conducted in 2011, a question on ethnicity was included. It implied self-declaration as a criterion for identifying the ethnicity of the population. With the inclusion of the question on nationality, Article 3 of the Council of Europe Framework Convention for the Protection of National Minorities, on the self-declaration of ethnicity and Article 20.2 of the Constitution of Albania, which guarantees the free expression of ethnicity, were implemented. The question related to ethnic and religious belonging has been a facultative question (optional), which means that no individual would have reason to distort the truth in answering this question. According to the census data, the percentage of minorities in Albania is estimated at 1.4% of the total population residing in the territory of Albania. In relation to this question, 13.96% of the resident population (out of total Albanian resident population of 2,800,138 inhabitants) preferred not to answer.

* The present document is being issued without formal editing.

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Follow-up to recommendation No. 7

3. The Albanian state has a positive balance and is committed to meeting the international standards of minority protection. Albania has ratified a number of conventions on human rights, as well as the Framework Convention of the Council of Europe for the Protection of National Minorities.

4. Albania bases the process of recognition of national minorities (in the legal situation where the definition of a national minority is missing) on the historical tradition, as well as on the criteria set by the international conventions such as the objective criteria that are related to the existence of ethnic, cultural, religious, specific and stable language characteristics from the rest of the population of this group, and the manifestation of the will to preserve their culture, traditions, religion, language, and the criterion that implies the personal choice to be part of the minority.

5. The Greek, Macedonian and Serbian-Montenegrin minority have been recognized as national minorities, while the Roma and Aromanians are known as ethno-linguistic minorities. The status of national or ethno-linguistic minority does not have any negative or discriminatory effect on the implementation of the Framework Convention for the Protection of National Minorities, as well as the observance and protection of the rights of these minorities.

6. The Framework Convention for the Protection of National Minorities constitutes the foundations on which the protection of minority rights and enforcement of policies on minorities in Albania is based. The Constitution of Albania has defined them as an integral part of the Albanian society, guaranteeing them protection from discrimination because of ethnic belonging, the exercise of their rights and freedoms in full equality before the law. The Constitution provides for their right to freely express, without being prohibited or forced, their ethnic, cultural, religious, and linguistic belonging and right, being guaranteed the conditions to maintain and develop their national, cultural and religious identity. The persons belonging to the minorities have the right to learn and be taught in their mother tongue, as well as to unite in organizations and associations to protect their interests and identity (Arts. 18 and 20). In this context, the policy of the Albanian state is based on two fundamental directions determined by the international instruments for their protection:

- Legal guarantees and practical exercise of the right for a non-discriminatory treatment of people belonging to minorities in full enjoyment of all human rights, civil rights and political freedoms, that the Constitution and the legislation recognize to all Albanian citizens;
- Legal guarantees and adoption of concrete measures to protect and respect the rights of people belonging to minorities, such as the right to freely express their affiliation, to preserve and develop their identity by exercising freely even those specific elements that characterize their lives as a minority, learning the mother tongue, holding cultural activities, exercise of religious cult, etc.

7. The Constitution and the current legal framework guarantee the rights of people belonging to minorities, the right to freely express their ethnicity, to preserve and develop their national identity, be educated in the mother tongue, the cultural and religious identity, as well as the fundamental freedoms and civil, political, economic and social rights.

8. Law No. 10221, dated 02.04.2010, "On Protection from Discrimination" regulates the implementation and observance of the principle of equality in relation to gender, race, skin colour, ethnicity, language, gender identity, sexual orientation, political opinions, religious or philosophical beliefs, economic, educational or social status, pregnancy, parentage, parental responsibility, age, marital or family status, civil status, residence,

health status, genetic predispositions, disability, affiliation with a particular group, or for any other reason.

9. The purpose of this Law is to ensure the right of every person to:

(a) Equality before the law and equal protection by the law;

(b) Equality of chances and opportunities to exercise their rights to enjoy their freedoms and take part in public life;

(c) Effective protection from discrimination and any form of conduct that encourages discrimination.

10. Further improvement of the protection of minority rights, in accordance with the European standards and in accordance with the commitments under the Council of Europe, the United Nations and the European Union, and the realization in practice of these rights is among the main objectives in the field of observance of the human rights.

Follow-up to recommendation No. 14

11. Law no. 10129, dated 11.05.2009, "On Civil Status", as amended, provides that "the National Civil Registry is a unique state document, reflecting the civil status components of every Albanian citizen, foreign national and any person without citizenship, with temporary/permanent residence in the Republic of Albania".

12. In addition, pursuant to the law "On the Identity Cards of Albanian Citizens" the right to be equipped with identity documents is recognized to all Albanian citizens, who have reached the age of 16 years.

13. From the data contained in the National Civil Registry, there is no rubric to determine the ethnicity of the Roma community. The persons belonging to this minority are entitled be equipped with identity documents, like all other Albanian nationals. In this context, considering the economic situation of this minority, the Albanian government has developed supportive policies, such as reimbursing the financial value of the ID card at 100%.

14. The Albanian institutions have pursued with priority the registration process of the Albanian children, in general, and the Roma ones, in particular, given the fact that a high number of unregistered children belong to this minority.

15. Faced with this situation, the General Directorate of Civil Status analyzed the cases in which the Roma children could not register because of the inaccuracy or lack of documentation. From the analysis of these cases, it turned out that we had to do with different groups or different types of unregistered cases, which sought different solutions.

16. From the analysis of their typology these cases are divided as follows:

- Born abroad and without documents, or having documents with inaccurate data;
- Born outside of health facilities/maternity wards and therefore not equipped with the document "Assistance at birth";
- Born in health care facilities/maternity wards and the mother has submitted wrong data;
- Born in health care facilities/maternity wards and abandoned by the relatives.

17. In order to regulate this situation, changes were made to the legislation and additions were made to the bylaws, which had two purposes:

(a) To prevent the cases of failure to register due to the erroneous filling of the form "Assistance at birth". From the analysis of the cases, it was found that this form is often filled with wrong data of the mother, which inevitably leads to the impossibility of child registration;

(b) To prevent this type of cases, it was proposed to the Ministry of Health to adopt a new form of "Assistance at birth", which was approved by Order no. 508, dated 07.12.2011, of the Minister of Health. By taking this step, it turns out that in the oncoming period, there are no unrecorded cases due to the inaccuracy of the mother's data;

(c) To register the unregistered cases, which generally are without documents or with inaccurate documents and where no additional documents could be provided. Found children are classified in this group.

18. In order to find a solution regarding this category of unregistered children, Instruction No. 7, dated 10.01.2012, "On approval of the minutes and proceedings, which will be completed by representatives of the State police and municipalities/municipal units/communes in cases of unregistered children in the registry", was approved.

19. The cases of children born outside the territory of the Republic of Albania are also included in this category. Even in these cases, a solution was found with the Ministry of Foreign Affairs so that, through our diplomatic/consular service in foreign countries, the document "Assistance at birth" could be ensured from the relevant health services of these countries, for all those families who could not ensure it themselves. As a result, during 2013, through this procedure about 70 Roma and non-Roma children were recorded. By taking these steps, about 90% of the cases were recorded through the administrative procedure and 10% through litigation.

20. By analyzing this situation, the General Directorate of Civil Status believes that the legal framework on this process is complete and currently it does not see the need for amendments or supplements.

21. During the years 2012 and 2013, a significant number of cases have been registered and several others are in process. During 2013, 123 Roma children have been registered. During 2014, 12 cases have been registered as retroactive cases as well as a number of other cases.

22. Actually, the available data show that a total of 150 cases have been identified as unregistered. They are in various stages of being solved. After being identified, these cases are classified and then the mode of solving them has been defined.

23. The phenomenon of unregistered children is decreasing, aiming at making the number of unregistered children go to zero. This requires:

- Primarily the self-awareness of the Roma minority;
- The awareness of all state authorities to denounce, when identifying such cases, to the bodies that have the obligation to effect registrations, starting from the relevant civil status office, the representatives of the local government, the State police authorities, etc., as set out in the Law "On Civil Status".

24. Registration of children remains one of the main priorities in the context of measures taken by the Government to improve the socio-economic situation of the Roma minority.

25. From the implementation of bylaws drafted in collaboration with other institutions, concrete results have been attained regarding the identification of children who have remained unregistered. The registration of the children has been done after identifying each case and according to the relevant issues. The Ministry of the Interior provides weekly information to the Social Welfare Ministry on this issue.

26. Regarding the problem of issuing identity documents, every individual of the Roma minority has the right and at the same time the obligation to be equipped with them. Such a right is provided to them by the national legislation, that makes no distinction for them, and consequently they are entitled to all the rights and obligations enjoyed by all Albanian citizens.

27. There are proposals, through the financial package given as a welfare support, to alleviate the financial burden for this community, in view of its entire equipment with documents issued by the Civil Status Service.